

**Place:** Raymond High School; Media Center  
**Call to Order:** 7:00 p.m.

**Members Present:** Jonathan Wood, Chairman; Doug Vogel, Secretary; Bill Hoitt, Board of Selectmen Ex-officio (arrived at approximately 7:05 p.m.); Jim Kent; Bill Cantwell; Gretchen Gott; Don Hedman, Alternate.

**Staff Present:** Ernest Cartier Creveling, Community Development Director; Robert Price, Planning Technician.

### **Pledge of Allegiance**

Mr. Wood announced Alternate Don Hedman would be seated in place of the absent Carolyn Matthews for the duration of the meeting.

### **Approval of Minutes**

Members Sitting for Approval of Minutes: Jonathan Wood; Doug Vogel; Bill Cantwell; Gretchen Gott; Jim Kent; Don Hedman.

MOTION: Mr. Hedman made a motion, seconded by Mr. Cantwell, to approve the minutes of October 14, 2010 as amended. The motion carried with a unanimous vote of 6-0-0.

### **Public Hearing – Lamprey Falls Conservation Subdivision**

Continued from 09/02/2010; Application #2010-008 – An application for an 18-unit conservation subdivision known as “Lamprey Falls” has been submitted by REI Development Company, LLC. The applicant proposes to construct nine duplex homes, totaling 18 residential units. The applicant was granted both a use variance to construct duplex homes within a conservation subdivision, and an area variance allowing the placement of 18 dwelling units on 21.7 acres of land, by the Raymond Zoning Board of Adjustment on January 09, 2008. The property is shown on Raymond Tax Map 44, Lot 13; surrounding and behind 17 Critchett Road.

Mr. Cantwell announced he will recuse himself from this hearing.

Members Sitting for this Hearing: Jonathan Wood; Doug Vogel (left at approximately 9:01 p.m.); Bill Hoitt (arrived at approximately 7:05 p.m.); Gretchen Gott; Jim Kent; Don Hedman.

Applicant/Agents Present: Allan Clark & Lee Tessier, REI Development Company, LLC, applicants.

Abutters/Public Present: Richard & Ellen Levine.

Mr. Cartier Creveling noted Southern NH Planning Commission submitted a letter to the Community Development Department earlier in the week regarding the regional impact determination made by the Planning Board for this project. Mr. Wood read the letter into the record. A copy of this letter is attached to the original set of minutes, on file with the Town Clerk.

Mr. Clark responded to the comments made in SNHPC’s letter as follows:

- Shoreland Protection Act – Mr. Clark stated the project is exempt from the Shoreland Protection Act because the variances were issued prior to the law being changed. He continued by

explaining that his understanding is originally, this portion of the Lamprey River did not fall under the Shoreland Protection Act, however the law was changed sometime after the variances were granted, and that change added this section of the Lamprey River. However, since the variances were already issued, they qualified for vesting rights, as provided by the law.

- Wetlands – The plans do have wetlands delineated, so he does not understand the claim that they are not on the plans.
- Site Elevations/Topography – Mr. Clark stated they have hired three different surveyors to conduct work on this site. He explained two different surveyors were hired to visit the site and verify the original work conducted by Richie Ladd. He noted results came back within ¼ “ of the original elevations provided by Mr. Ladd. He also noted that the Town’s peer reviewing engineer, Altus Engineering, put in writing that the elevations are accurate.
- Alteration of Terrain Permit – Mr. Clark noted they met with the Department of Environmental Services, and stated the plans currently before the Planning Board are compliant with current Alteration of Terrain rules. He noted they have not yet received, but do require, an Alteration of Terrain Permit.
- Bio-Retention Ponds – Mr. Clark stated the maintenance of the bio-retention ponds will be the responsibility of the homeowner’s association, as will be outlined in the condominium documents.
- Community Water Supply – Mr. Clark clarified that there is not a community water supply. He explained there will be two wells to service the 18 dwelling units; however each well will serve nine units, which is below the State’s threshold for triggering a community water supply.
- Septic Systems – Mr. Clark confirmed that septic system design information has not yet been created, and will be submitted for review once designs are complete. He noted the systems will need to be designed prior to obtaining State of NH Subdivision Approval.

Mr. Clark also added that the 100-year flood level is at approximately elevation 214. He noted that the flood level experienced in April 2007 reached approximately elevation 216, adding this number was verified by Mr. Ladd.

Mr. Wood asked what has changed since the last meeting on September 02, 2010. Mr. Clark replied the only thing that has changed is that they issued revised plans in response to Altus Engineering’s initial review.

Mr. Wood asked if each of the duplex homes would have fire sprinklers. Mr. Clark replied each home would contain fire sprinklers.

Ms. Gott asked for a status update on flood map revisions for the Town. Mr. Cartier Creveling stated that updates are unlikely to be completed for quite some time.

Ms. Gott asked for a status update on peer review of the plans with Altus Engineering. Mr. Cartier Creveling informed the Board that Mr. Weinrieb of Altus is hoping to issue a second review letter early next week.

**PUBLIC COMMENT**

Richard and Ellen Levine each presented photographs to the board depicting the floods in May 2006 and April 2007, and additional photos from flooding occurring in March 2010.

Mr. Levine stated in 2007 water came to within one foot of their residential well. He stated adding anything to this site will cause the water levels to rise further and risk contamination of their well during future floods.

Mr. Wood asked for clarification from the Levines. He stated prior to the site being filled and graded, there was ample flood storage. It was only after the site was filled and graded did the flood concerns come up. Ms. Levine confirmed this was correct.

Ms. Levine stated there is no way the flood elevation is 216 because her home has yet to flood, and her home sits at elevation 212.

Ms. Levine noted she and her husband purchased their home in 2004, adding that the subject property, which formerly served as an excavation site, was filled and graded in 2006.

Mr. Vogel asked if the property owner was authorized to fill the excavated area. Mr. Cartier Creveling stated the excavation site was a grandfathered excavation under State law. Mr. Cartier Creveling also noted that the Town's Legal Counsel has stated the grandfathering status is not germane to the application before the Board.

The Levine's contested the grandfathered status of the excavation, noting Bruce Stevens, the property owner purchased the site in 1985. Mr. Levine asked how the excavation received grandfathering status. Mr. Wood stated the excavation was active prior to Mr. Stevens' ownership in 1985, adding it was active prior to 1979, which makes it a grandfathered excavation per State law.

Mr. Vogel stated REI Land Development Corporation had nothing to do with causing flood concerns. He asked if the Levine's felt their proposal will make the current situation better or worse. Ms. Levine stated worse because there will be septic systems installed in an area prone to flooding.

Ms. Gott asked if Mr. Clark did any work on the site whatsoever. Mr. Clark stated no.

Mr. Hedman asked if there were any pictures located more toward the middle of the site in addition to the ones showing the outer areas. Ms. Levine stated she does have some, but inadvertently left them at home.

Mr. Levine stated regarding site elevations, he purchased a handheld GPS and took elevations in several locations himself. He showed the Board photographs of his personal spot checks. He noted he checked Dudley Bridge, which is a US Benchmark at elevation 211.8, and his reading came in at 212. He went to the site and took several readings, which ranged from elevation 208 to 212.

Mr. Wood asked for clarification that the Levine's primary concern is that they believe flood storage area has been compromised due to changed in the terrain. Ms. Levine stated yes.

Mr. Levine stated his brother-in-law is a surveyor and the two of them also used surveying equipment to take elevations. He stated the readings came back very close to his GPS unit.

Ms. Levine stated she also has a concern with why the excavation was never properly reclaimed. Mr. Wood stated the State has been either reluctant or unable to enforce reclamation on certain projects.

Mr. Vogel asked what else the Levine's are concerned with relating to the application, outside of elevations. Mr. Levine stated they would like the property to be conserved, not developed, adding it needs to be conserved to ensure the safety of the homes already located in the area. Ms. Levine stated her great concern is that the river will, as an end result of the development, flood her home.

Bill Cantwell, speaking as a citizen, stated the site will be lowered adjacent to the river. The river currently wraps around the site and, as we know, floods the site. He stated his biggest concern is that the river will cut through the soft gravel on the site and run right through the development.

Mr. Clark stated some of the concern with elevations could be that there is some land, not considered wetlands, that is at elevation 200, in the area of the Levine property. He stated the majority of the site is elevation 216, but the land is not flat – it slopes slightly from 216 down to 200.

Mr. Clark continued by stating they could have moved ahead with the previous plan, but decided to pull back and redesign it for safety's sake. He stated the homes will be at elevation 218.5 because the Zoning Board of Adjustment had this requirement. He stated the Levine's appealed that decision to Superior Court, and the Court ruled in favor of the ZBA. He stated the intention is to provide quality, affordable, workforce housing. The law says we need to build homes above elevation 214, and they will be built to elevation 218.5.

Mr. Kent asked if the North/Northwest bank of the site will be armored for defensive measures to protect the shoreline. Mr. Clark stated he is not familiar with armoring. Mr. Kent explained that it may help prevent further erosion of the river bank. Mr. Clark stated he feels the plan addresses all goals for safety.

Mr. Hedman asked for the exact location of the wells. Mr. Clark replied they are not certain as of yet. Mr. Hedman expressed concern that the wells could be compromised if the site floods again. Mr. Clark replied that the wells will be placed above elevation 214. Mr. Hedman noted the April 2007 flood reached elevation 216. Mr. Clark replied by stating the wellheads can be raised.

Mr. Wood asked if the quality of the material in the area of the proposed excavation was sufficient to be used as fill. Mr. Clark replied yes. Mr. Wood asked if the applicant were to dig deeper and create additional flood storage, would that create enough excess material to raise the homes an additional six inches. Mr. Clark replied they do not want to excavate too deep and create a breach. He added he does not want to create a hole that cannot be landscaped and will not be aesthetically pleasing. He added he does not see an extra six inches accomplishing much in terms of creating additional flood storage.

Mr. Cartier Creveling asked if DES had any concerns with a potential breach. Mr. Clark replied to his knowledge, no.

Mr. Cartier Creveling stated at this point, this section of the Lamprey River has not been studied for fluvial erosion concerns. The study will occur in summer 2011.

Mr. Wood asked when construction would begin, if the plan were to be approved. Mr. Clark replied when the economy improves, adding there is a possibility that Spring 2011 is reasonable.

Mr. Wood stated if a fluvial erosion study is completed and a determination is made that this areas is at risk, you will likely have approved plans that will not necessarily subject you to any legislation or recommendation. He asked if the applicant would disclose the results of a fluvial erosion study to potential buyers. Mr. Clark replied yes, adding it only makes sense to disclose such information.

The Board discussed the possibility of having Eric Weinrieb of Altus Engineering attend the next meeting to answer some questions, but no final determination was made. Some members, Ms. Gott in particular, expressed they had specific questions which they would like Mr. Weinrieb to be present to answer.

*Mr. Vogel left the meeting at this time (approximately 9:01 p.m.). The sitting members of the Board are now Jonathan Wood; Bill Hoitt; Jim Kent; Gretchen Gott and Don Hedman.*

Ms. Gott asked if any fill will be brought in from off-site. Mr. Clark replied some will need to come in, specifically crushed gravel, though he stated he does not know how much is needed at this time.

Ms. Gott asked how many yards of material will need to be excavated and relocated to raise the homes. Mr. Clark stated he does not recall the exact number, but believes it is less than 10,000 yards.

Mr. Clark offered that the Town can hire a licensed land surveyor to check the benchmarks wherever it wants. If the Town provides an estimate to him for a limited benchmark elevation check with limited spot grade checks, then, assuming the cost was reasonable, he would be willing to pay for it. He added he would request that any outcome is checked by Altus Engineering.

Mr. Wood asked if a surveyor hired by the Town would be allowed onto the Levine's property. Mr. & Ms. Levine replied yes.

Mr. Clark stated if the elevations are determined to be incorrect, he will withdraw the application because he will not intentionally put people at risk. He stressed, however, he has no reason to believe the elevations will turn up wrong.

**MOTION:** Mr. Hedman made a motion, seconded by Mr. Hoitt, to continue the public hearing for Application #2010-008 to December 02, 2010 at 7:00 p.m. at Raymond High School. The motion carried with a unanimous vote of 5-0-0.

Mr. Cantwell returned to his seat for the duration of the meeting.

#### **Work Session – Zoning**

Members Sitting for this Discussion: Jonathan Wood; Bill Hoitt; Gretchen Gott; Jim Kent; Bill Cantwell; Don Hedman.

The Board agreed to table the work session on zoning until the meeting on November 04, 2010.

**Other Business**

Members Sitting for this Discussion: Jonathan Wood; Bill Hoitt; Gretchen Gott; Jim Kent; Bill Cantwell; Don Hedman.

Mr. Cartier Creveling noted that the zoning proposal offered last week by Ms. Matthews has been brought before the Technical Review Committee, who found it to be a good proposal.

Mr. Cartier Creveling noted the TRC made another pass through the Sourcewater Protection Plan. He noted he had some notes that need to be organized, and that the TRC will take it up again in the near future.

Ms. Gott stated she would like to come up with a zoning moratorium on any additional well drilling or pumping in the area of the Mottolo Superfund Site. Mr. Cartier Creveling stated he sat in on a conference call with Senator Shaheen's Office, the Department of Environmental Services, and others about this issue. He noted there was concern about doing what Ms. Gott proposed.

Mr. Price noted Southern NH Planning Commission wants some time on an upcoming agenda to discuss the 10-year Highway Plan. The Board agreed this should take place December 9.

Mr. Price also noted that the Conservation Commission has requested that the Planning Board schedule time to review and adopt the Open Space Plan. It was agreed that the Plan should be briefly presented to the Board on December 9, with a public hearing scheduled sometime afterward.

**Adjournment**

MOTION: Mr. Cantwell made a motion, seconded by Mr. Hoitt, to adjourn. The motion carried with a unanimous vote of 6-0-0. The meeting adjourned at approximately 9:40 p.m.

Respectfully submitted,

Robert Price  
Planning Technician